

Gazette

Pols aghast at planners' recalcitrance **Board not cooperating fully with Clarksburg investigators**

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Montgomery County Council members across the political spectrum reacted with disbelief Thursday after being informed that the county Planning Board has not been fully cooperating with investigations of the Clarksburg fiasco.

"There is no excuse for not talking and for not making available every piece of information at their disposal," said Councilwoman Nancy M. Floreen, a lawyer and former member of the Planning Board.

"Practices for oversight include a complete transparency in the process. Are they hiding something?" said Floreen (D-At large) of Garrett Park.

In the wake of the planning scandal, the council asked its Office of Legislative Oversight in July to investigate how so many violations were allowed to happen without challenge by county officials.

The State Prosecutor's Office and the county's inspector general have launched separate investigations.

But planning commissioners, who report to the County Council, have balked at talking to investigators themselves, and the inspector general said that the Department of Park and Planning has been slow in providing documents and scheduling interviews with employees.

"You have to have an investigation that means something," said Councilman Howard A. Denis (R-Dist. 1) of Chevy Chase. "I don't know how you can have an investigation unless people are talking to people."

After research by residents of the new Clarksburg Town Center revealed that a planner falsified documents to cover up building height violations there, the Planning Board in July ruled that 433 townhouses and an apartment building in the

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development had been built too tall and that 102 houses were too close to streets.

"It seems to me there have been no enforcement activities by the Planning Board that would hold developers accountable," Floreen said.

Planning Board counsel Adrian Gardner has sent a letter to council lawyer Michael Faden, suggesting that OLO determine whether it has questions for the board that "do no implicate the merits" of the Clarksburg case, Planning Board spokeswoman Nancy Lineman said.

While the board, as a quasi-judicial body, maintains that it is not permitted to talk about the specifics of the Clarksburg case, Lineman said the commissioners could discuss, for example, the process, timeline and the board's intent.

"You could draw parameters that had certain things off limits and still have the conversation," Councilwoman Marilyn Praisner (D-Dist. 4) of Calverton said.

"I strongly encourage the Planning Board to cooperate in any way possible with the OLO and the inspector general's inquiries," said Councilman George L. Leventhal (D-At large) of Takoma Park.

But Leventhal noted that there was little the council could do to get the independent body to talk.

The council's strongest oversight tool is its power to reappoint, or not reappoint, commissioners.

Nonetheless, the planning commissioners should be able to speak to general procedures and the process, said Councilmen Philip M. Andrews (D-Dist. 3) of Gaithersburg and Michael J. Knapp (D-Dist. 2) of Germantown.

In a memorandum dated Oct. 24, Inspector General Thomas J. Dagley told County Attorney Charles W. Thompson that he had not received the information that he requested from the Department of Park and Planning "within a reasonable time" and that the department had not yet scheduled an interview he requested with a specific employee.

Dagley has already interviewed budget chief Edith Michel and was scheduled to interview community-based planning chief John Carter on Thursday, Lineman said.

Park and Planning is in the process of providing information on management of its vehicle fleet and is reformatting, at Dagley's request, income and expense information that it provided in read-only computer form, Lineman said.

Dagley said Thursday that he has not asked to interview planning commissioners.

Dagley said Thompson's staff has assured him that they will assist him in obtaining the information he seeks. He said he is confident that he will get it.

Critics claim that planners had been encouraged to accommodate developers, who generously contribute to key political campaigns.

Continued research by residents, organized as the Clarksburg Town Center Advisory Committee, recently led the board to find that Newland Communities failed to provide numerous community-wide recreational facilities in its development of the Town Center.

CTCAC's complaints also led the county's Department of Housing and Community Affairs to find that Newland violated its agreement to provide affordable housing by

changing the number and completion dates of the units without approval.

Complaints by community activists in Bethesda led Park and Planning on Wednesday to order McLean, Va.'s Elm Street Development to stop work on the upscale Bethesda Crest development because county officials' measurements showed some townhouses have been built too close to streets.

At Bethesda Crest, as in Clarksburg, records indicate that the developer violated building standards set by the Planning Board, then sought to have the standards changed.

"I think it's outrageous," Denis said. "I hope the moratorium in Bethesda, on what I call the Goodwill property, means the era of getting away with something is over."

CTCAC co-founder Amy Presley told the Planning Board Tuesday that, in Clarksburg, the developer systematically abused the authority the board gave planners to grant minor requests for changes. Developers did what they wanted and assume that they could get an after-the-fact amendment, she said.

"This has to do with a process that in itself is a violation," Presley told the board.

"I think what they felt was that if they erred in their siting, we would simply amend, without penalties," the planning department's development review chief, Rose G. Krasnow, said Thursday.

"That was then — now if we find they 'made mistakes' ... we won't just paper over those mistakes, we will take action," she said.

But Praisner suggested the problem is larger.

"The question is what's the culture that suggests that what the site plan says doesn't matter," she said Thursday.

"I have yet to hear anything that would indicate to me that there is not something wrong with our process," Knapp said.

Council members declined to say whether they would reappoint Planning Board Chairman Derick P. Berlage to a second four-year term when his term expires in June.

But Knapp said that, while the promised changes and improvements must be done correctly and clearly, they have come too slowly. The Planning Board has known about the problems for four months.

"You can turn entire companies around in 90 days," Knapp said.